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## Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Costa Rica, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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## Annex

[Original: English]

### Note verbale dated 24 December 2001 from the Permanent Mission of Costa Rica to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Costa Rica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to enclose the Costa Rican national report on the implementation of Security Council resolution 1373 (2001).

## Enclosure

[Original: Spanish]

# Report of the Republic of Costa Rica on the steps taken pursuant to Security Council resolution 1373 (2001), submitted to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

## Inter-agency Working Group on Terrorism

21 December 2001

The Government of Costa Rica is pleased to submit to the Counter-Terrorism Committee of the United Nations Security Council the following report on the follow-up to resolution 1373 (2001) of 28 September 2001. The report has been drafted in the form of answers to the questions contained in the Committee's "Guidance for the submission of reports".

## Paragraph 1

**Subparagraph (a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?**

Costa Rica has a structure for the supervision of financial entities which currently consists of the Office of the Superintendent of Financial Institutions (SUGEF), the Office of the Superintendent of Securities (SUGEVAL) and the Office of the Superintendent of Pensions (SUPEN).

### 1. SUGEF

For many years, SUGEF functioned as a department of the Central Bank of Costa Rica called the Office of the Auditor-General of Banks. Subsequently, some changes were made and, with the promulgation of Act No. 7558 organizing the Central Bank of Costa Rica, in force since 27 November 1995, the regulation of financial entities was declared to be a matter of public interest and SUGEF was created. A decentralized body, SUGEF was given increased powers and greater administrative autonomy through the establishment of its own board of directors.

These changes also altered the system of ex post repressive regulation used by SUGEF until then, promoted a novel approach of ex ante discretionary supervision designed to ensure the transparency, promote the strengthening and foster the development of Costa Rica's financial system, and expanded its area of oversight, bringing under its control all entities operating as financial intermediaries within the national territory or authorized by the Central Bank to operate on the foreign exchange market.

The promulgation of Act No. 7732 regulating the stock market, in force since 27 March 1998, introduced changes in the financial and stock market system and, with them, amendments to Act No. 7558. The functions previously performed by the SUGEF board of directors would henceforth be carried out by the National

Supervisory Board for the Financial System (CONASSIF), which serves as the board for all three Superintendents' Offices responsible for the supervision and regulation of financial intermediaries, the stock market and pension funds.

**Entities supervised by SUGEF**

SUGEF is currently responsible for supervising three State commercial banks, two banks set up by special laws, 16 private banks, 13 non-bank financial institutions, 27 cooperative savings and loan banks, three authorized entities of the national financial system for housing, two foreign exchange offices and 22 financial groups.

## 2. SUGEVAL

The National Securities Commission was set up by Act No. 7201 of October 1990 regulating the stock market and amending the Commercial Code. It was to be a decentralized body attached to the Central Bank of Costa Rica and responsible for the supervision, regulation and promotion of the stock market.

Act No. 7201 was amended by Act No. 7732, which was published in the Official Gazette of 27 January 1998 and entered into force on 27 March 1998. Act No. 7732 established new rules for the functioning of Costa Rica's stock market and set up the Office of the Superintendent of Securities as the public body responsible for supervising the stock market. The Office replaced the National Securities Commission and was given expanded responsibilities, duties and powers.

SUGEVAL is currently responsible for supervising 33 non-financial and 39 financial issuing companies, one stock exchange, one securities market, 23 broker-dealers, 23 investment fund management companies, 138 investment funds and two risk-assessment companies.

## 3. SUPEN

The Office of the Superintendent of Pensions was set up by Act No. 7523 of 18 August 1995 as a decentralized body attached to the Central Bank of Costa Rica. It regulates and oversees private pension schemes and has been in operation since August 1996. The Act was amended by Act No. 7983 on the protection of workers, section VI of which establishes that "the pension system shall be regulated and overseen by an Office of the Superintendent of Pensions, a decentralized body with operational personality and legal capacity and attached to the Central Bank of Costa Rica. The Office of the Superintendent of Pensions shall authorize, regulate, supervise and oversee the plans, funds and schemes envisaged in this Act ...".

To sum up, the three Superintendents' Offices are responsible for supervising financial and stock market transactions in the country and thus for preventing crimes related to money-laundering (particularly SUGEF and SUGEVAL).

**Act No. 8204**

To perform this function, on 17 December 2001 the Legislative Assembly approved in second reading Act No. 8204, which comprehensively amends Act No. 7786 of 30 April 1998 on narcotic drugs, psychotropic substances, unauthorized drugs and related activities. The new Act regulates financial activities and establishes penalties to prevent the penetration of money deriving from serious

crimes and from all procedures that may serve as a means of laundering such money, including offences related to terrorism. To that end, serious criminal offences are understood to be those punishable by a minimum of four years' imprisonment or a harsher penalty. The Act stipulates that it is the State's responsibility, and in the public interest, to adopt the necessary measures to prevent, control, investigate, avoid or suppress any unlawful activity in this area. This was a major legislative advance, in that the financial controls and the crimes provided for in Act No. 7786 will henceforth apply to a large number of criminal activities.

Article 14 of Act No. 8204 characterizes financial entities as those regulated, supervised and overseen by SUGEF, SUGEVAL and SUPEN. The obligations imposed by the Act also apply to all entities or companies belonging to financial groups supervised by those bodies, including financial transactions that banks or financial entities domiciled abroad may carry out through an institution domiciled in Costa Rica. Those entities are subject to supervision by one of the three Superintendents' Offices with respect to money-laundering. The fact that Act No. 8204 makes it possible to supervise offshore financial entities is another major advance over Act No. 7786.

Article 15 establishes that persons who engage in the following activities, among others, shall also be subject to the Act:

(a) Systematic or substantial money-changing operations and transfers through any instrument, such as cheques, bank drafts, bills of exchange or similar instruments;

(b) Systematic or substantial operations with respect to the issuance, sale, recovery or transfer of traveller's cheques or postal or money orders;

(c) Systematic or substantial transfers of funds effected by any means;

(d) Management of trust funds or any kind of resource management carried out by individuals or legal entities that are financial intermediaries.

Individuals or legal entities that carry out the activities indicated above and are not supervised by any of the three Superintendents' Offices in Costa Rica must register with SUGEF, although this does mean that they are authorized to operate.

In order to prevent operations involving the concealment and movement of money of suspicious origin and other transactions aimed at laundering money deriving from serious crimes, financial entities will have to comply with the following provisions of article 16 of newly adopted Act No. 8204 on psychotropic substances:

(a) Obtain and keep information on the true identity of persons on whose behalf an account is opened or a transaction is carried out, if there are suspicions that customers may not be acting on their own behalf, especially in the case of legal entities that do not carry on commercial, financial or industrial operations in the country where they are based or domiciled;

(b) Keep named accounts; anonymous accounts, numbered accounts or accounts under fictitious or inaccurate names are not allowed;

(c) Record and verify, by reliable means, the identity, representative status, domicile, legal capacity, occupation or company aim of individuals or legal entities, as well as other identifying data, regardless of whether they are occasional or

regular customers. Such verification shall be carried out on the basis of identity documents, passports, birth certificates, driving licences, company deeds and statutes or any other documents, official or personal. In particular, it shall be carried out when commercial relations are established, especially when new accounts are opened, savings books are issued, trust fund transactions are carried out, safe deposit boxes are rented or cash transactions take place involving over US$ 10,000 or the equivalent in other foreign currencies;

(d) Keep, for the duration of an operation and for at least five years after the date on which the transaction is completed, records of the information and documentation required under article 16;

(e) Keep for a minimum of five years customer identity records, account records, commercial correspondence and records of financial operations enabling a transaction to be reconstructed or concluded.

All financial entities will have to record, on a form designed by the competent supervisory and regulatory body, any incoming or outgoing cash transaction, in national or foreign currency, involving over US$ 10,000 or the equivalent in colones. This also applies to transfers to and from abroad.

Article 21 specifies the data that will have to be included on forms filled out by financial entities supervised by SUGEF, SUGEVAL and SUPEN:

(a) Identity, signature, data of birth and address of the person physically making the transaction. A photocopy of some form of identity document will also have to be produced. Legal entities will have to provide the same information in respect of their legal representative and their resident agent as that requested from individuals;

(b) Identity and address of the person in whose name the transaction is being carried out;

(c) Identity and address of the beneficiary or recipient, if any, of the transaction;

(d) Identity of the accounts, if any, affected by the transaction;

(e) Type of transaction involved;

(f) Identity of the financial entity which made the transaction;

(g) Date, time and amount of the transaction;

(h) Origin of the transaction;

(i) Identification of the official who processed the transaction.

Article 22 establishes the obligation of the financial entity to record the transaction accurately and fully on the date on which it takes place and to keep the record of the transaction for five years from that date.

Under article 23, multiple cash transactions, whether in national or foreign currency, the aggregate amount of which exceeds US$ 10,000 or the equivalent in colones are deemed to be a single transaction if they are carried out by or on behalf of a specific person in the course of one day or within any other period of time established by the competent supervisory and regulatory body. In such cases, if the

financial entity or its employees, officials or agents are aware of such transactions, they must record them as indicated above.

Under articles 24 and 25, financial entities subject to the provisions of this section must pay special attention to suspicious transactions, such as those not carried out in the customary manner and those which, while not significant, take place regularly without any obvious economic or legal basis.

If it is suspected that the transactions described above constitute or are related to illicit activities, including transactions deriving from transfers made to or from the country, financial entities must immediately report them confidentially to the corresponding oversight body, which shall refer them at once to the Financial Analysis Unit.

Article 26 of Act No. 8204 establishes the obligation of supervised entities to adopt, develop and implement internal programmes, regulations, procedures and controls to prevent and detect activities which would use their services as a means of laundering money derived from serious crimes and from any procedures which may serve to launder such money. Such programmes shall include, at the least, the adoption of procedures to ensure a high level of staff integrity and a system for evaluating the personal, employment and financial background of staff, as well as ongoing programmes to train and educate staff about the responsibilities established by the Act.

Under article 27, financial entities must designate officials responsible for ensuring compliance with internal programmes and procedures, including proper record-keeping and the reporting of suspicious transactions. Such officials are to serve as liaison with the competent authorities and will be supervised by the administration of the financial entity, which must provide proper channels of communication to help the officials do their work.

Article 28 of the Act stipulates that bodies entrusted with powers of regulation and supervision, including SUGEF, SUGEVAL and SUPEN, will have the following obligations, among others:

(a) Ensuring effective fulfilment of the recording and reporting obligations set forth in the Act;

(b) Issuing instructions and deciding on the content of forms for the recording and reporting of the operations indicated in article 20 of the Act, with a view to making recommendations that will assist financial entities in detecting suspicious patterns of conduct on the part of their customers. Such guidelines must take account of modern, secure techniques for asset management and serve as an educational tool for the staff of financial entities;

(c) Cooperating with the competent authorities and providing them with technical assistance in the context of investigations and proceedings related to crimes characterized in the Act.

**Other regulations**

Pursuant to the provisions of the above-mentioned Act No. 7786, the Superintendents' Offices issued guidelines for meeting these obligations, which will be adapted to meet the requirements laid down in the new Act No. 8204.

In this regard, the three Offices worked in coordination to prepare a single document, which was issued by each of them with a different number. SUGEF issued SUGEF external circular No. 15-2001; SUGEVAL issued circular No. 1925; and SUPEN issued the same circular with another number.

The document covers the following topics:

## A. Programmes and controls to be established by supervised entities

The entities will have to devise programmes, regulations, procedures and controls for use in preventing the laundering of money derived from illicit activities, taking into account, at a minimum, the provisions of article 28 of Act No. 7786 concerning the moral integrity of staff and education and training programmes on the responsibilities established in the Act, as well as the points listed below under this section.

Such programmes, regulations and procedures must be approved by each entity's management or board of directors and will have to remain available to the Superintendent's Office. At a minimum, they must include the following:

(a) Methodology used for the registration and verification of each customer's identity and of the representative capacity of individuals who are acting on behalf of other individuals or legal entities;

(b) Methodology for determining the relationship between the customer's economic activity and his or her transactions with the products offered by entities under the Superintendent's regulatory authority;

(c) Definition and/or description of the parameters or tools used to establish the risk levels of the products and services offered, as an aid in identifying unusual operations;

(d) Description of the relevant warning signs, in accordance with the nature of the supervised entity and of the products and services it provides;

(e) Methodology for consolidating information on a customer's transactions in all the supervised entity's offices, agencies or branches;

(f) Parameters for identifying customers whose transactions are considered normal.

## B. Customer identification

The supervised entities will have to establish appropriate mechanisms for verifying each customer's identity whenever any type of transaction is carried out. They will also have to keep updated records on occasional or regular customers for the duration of the operation and for at least five years, taking into account, at a minimum, the provisions of article 16 of Act No. 7786.

## C. Compliance officer

The entities will have to designate at least one official (compliance officer) pursuant to the provisions of article 29 of Act No. 7786, as well as an alternate, who will take the official's place if the latter is absent or otherwise unable to fulfil his or her functions. Such official must receive support from the general management or

board of directors of the respective entity for the normal discharge of his or her functions.

The functions of this official shall be, at a minimum:

(a) Ensuring compliance with programmes and procedures;

(b) Ensuring that proper records are kept;

(c) Monitoring customer operations on a continuous basis, with a view to identifying transactions that have no obvious economic or legal basis or that deviate from the usual patterns established by the entity;

(d) Reporting suspicious operations discovered by means of the analysis referred to in the preceding subparagraph;

(e) Providing the Superintendent's Office with the information contained on the Cash Operations (single and multiple) forms, in accordance with the provisions of this circular;

(f) Serving as the entity's liaison with the Superintendent's Office and the competent authorities, pursuant to Act No. 7786.

It is important to stress that the official designated must have sufficient time to carry out his or her work in an efficient and timely manner.

The individuals appointed to this post must meet the following minimum requirements:

(a) Moral integrity;

(b) Discretion;

(c) Analytical capacity;

(d) Thorough knowledge of the entity's operations.

## D. Forms

The supervised entities will have to record, on the forms designed by the Superintendent's Office, the following transactions:

(a) Any single or multiple cash deposit in local or foreign currency which exceeds US$ 10,000 or the equivalent in colones. They must also record cash withdrawals in foreign currency which exceed US$ 10,000, effected by or on behalf of an individual;

(b) Any transaction deemed suspicious in accordance with the provisions of article 6 of the circular.

To avoid inconsistencies in the transactions reported, the documents substantiating them (receipts, etc.) must indicate correctly whether the transaction was effected in cash or by another means of payment (cheque, transfer, etc.).

## E. Information to be provided to the Superintendent

Within 15 calendar days after the close of each month, the compliance officer referred to in section C will have to submit to the Superintendent a table

summarizing the most relevant information from the reports of single and multiple transactions effected in the preceding month.

Issuing entities regulated or supervised by both SUGEVAL and SUGEF (friendly societies, cooperatives, finance companies and banks) must provide this information to SUGEF to avoid double reporting.

If the compliance officer works for a financial group supervised by more than one Superintendent's Office, he or she must, in preparing this summary table, classify single and multiple forms by Office, taking into account the entity where the transaction originated. For example, if a form was prepared by a cashier at a bank providing services to a broker-dealer or an investment fund management company, it must be reflected in the summary sent to the Office of the Superintendent of Securities and not the one sent to the Office of the Superintendent of Financial Institutions, since the entity where the transaction originated was the broker-dealer or investment fund management company.

Once this information has been received from the supervised entities, it is consolidated and made available to the Joint Anti-Drug Intelligence Centre (CICAD) upon request.

### F. Suspicious activities

Entities must establish procedures for detecting transactions that deviate from the normal pattern.

Should the compliance officer have reason to suspect a given transaction, he or she must notify the Superintendent's Office by means of the form drawn up for this purpose, which must be sent to the Superintendent of Securities in a sealed envelope marked "CONFIDENTIAL" immediately after the relevant investigation has been conducted and if the facts are deemed to be clear and sufficient to sustain the suspicion.

Annex 3 to the circular lists some warning signs of operations that could be considered suspicious. It was provided to the entities to serve as an aid in identifying suspicious operations.

It should be noted that, when a report of a suspicious operation is received from a given entity, it is referred immediately to the Public Prosecutor's Office.

### G. Obligation of supervised entities to keep records of their transactions

The entities subject to supervision or regulation will have to keep all documentation available for at least five years, in accordance with the provisions of article 16, paragraphs (d) and (e), and article 22 of Act No. 7786. Such documents should make it possible to reconstruct each transaction for the purpose of providing, if necessary, evidence for any judicial action that may be taken.

**External circular No. 27-2001:**

In addition, SUGEF issued external circular No. 27-2001, which contains general guidelines for introducing the "Know Your Customer" policy, aimed at ensuring that supervised entities adopt and implement mechanisms, procedures and controls for the effective identification of the customers who use their services; that is, customers who have an account or a permanent relationship with the financial

entity and those who initiate such an account or relationship, whether individuals or legal entities, nationals or foreigners.

This circular serves as a guide for the proper identification of customers on the basis of the legal requirements spelled out in article 16, paragraphs (a) to (e), of Act No. 7786, which must be documented in each of the entity's files for each customer. The guidelines for proper customer identification are aimed at monitoring personal accounts, business or corporate accounts and the services offered by the entities (such as special accounts, bank transfers sent or received, cash loans or withdrawals, credit guarantees with bank instruments, high volumes of payment instruments, securities transactions, trusts, international transactions and electronic transactions, among others).

**On-site inspections**

**Office of the Superintendent of Financial Institutions:**

To assess compliance with the requirements established by Act No. 7786 and the regulations issued by SUGEF (SUGEF-15-2001 and SUGEF-27-2001), this Office developed and implemented the following specific tasks that are performed on site, based on sufficient relevant evidence, and used in the preparation of a detailed report on the findings, which are formally transmitted to the entity concerned. These tasks will be adapted to meet the requirements of the new Act No. 8204:

(a) Verifying that the financial entity is complying with the requirement to develop, issue and implement a handbook of procedures for the prevention, detection and control of the operations referred to in Act No. 7786 on psychotropic substances;

(b) Ensuring that the entity's staff are aware of Act No. 7786 on psychotropic substances, the regulations issued by SUGEF and existing international rules regarding money laundering (such as those of the Basel Committee on Banking Supervision, the United Nations and the Organization of American States (OAS), and the recommendations of the Caribbean Financial Action Task Force (CFATF));

(c) Verifying compliance with article 29 of Act No. 7786 concerning the appointment of an official to ensure compliance with internal programmes and procedures and the appointment of an alternate, as provided for in circular No. SUGEF-15-2001;

(d) Determining whether the entity has a committee on money-laundering to implement the provisions of Act No. 7786;

(e) Examining the control mechanisms established by the entity for the issuance, safe deposit and reporting of cash transactions involving amounts greater than US$ 10,000 or the equivalent in colones;

(f) Verifying that the entity has adopted and implemented procedures for detecting, investigating and reporting suspicious and multiple operations through the establishment of parameters or limits for what is considered normal;

(g) Verifying that the entity has developed and is implementing the "Know Your Customer" policy through the establishment of mechanisms for identifying,

monitoring and knowing the customer, in line with the regulations contained in SUGEF-27-2001;

(h) Ensuring that the entity has developed and is implementing an ongoing education and training plan, in accordance with the provisions of Act No. 7786, for both new and existing staff;

(i) Identifying the programmes, regulations and controls established by the internal audit services to assess compliance with Act No. 7786 and to ensure that they are sufficient to prevent customers from using the entity to carry out illegal operations;

(j) Assessing the efficiency of current information systems in meeting the requirements of Act No. 7786.

It is important to stress that, between July 2000 and December 2001, SUGEF evaluated 20 financial entities (three State banks, one bank established by a special law, two cooperatives and 14 private banks). For 2002, it will begin the on-site inspection of the remaining entities (three private banks, 16 non-bank financial institutions, 26 cooperatives, one friendly society and two foreign exchange offices), and will continue to follow up on the recommendations made to the entities already evaluated.

Since the promulgation of external circular No. 16/98 and, subsequently, external circular No. 15-2001, which abolishes it, entities subject to regulation by the Superintendents' Offices have implemented the system of so-called "warning signs" to ensure that their staff are able to detect operations which, owing to their nature or their unusual amounts, may be considered suspicious. As indicated previously, efforts are made during the on-site reviews to ensure that financial entities are implementing this system of warning signs and providing effective training to their staff, and that compliance officers have mechanisms for detecting and reporting suspicious transactions.

When suspicious activities are detected, they are reported confidentially to the Superintendent's Office; an information-gathering process is launched to substantiate the suspicion; and charts are prepared on the origin and destination of the funds concerned. Lastly, a report is prepared and submitted to the Public Prosecutor's Office, in accordance with article 32 of Act No. 7786.

It should be noted that very effective communication has been established between compliance officers and the Superintendents' Offices, as well as the Financial Analysis Unit of the Joint Anti-Drug Intelligence Centre (CICAD), for handling and investigating cases, since access to information facilitates the investigation process. To date, some 45 cases have been reported to the Public Prosecutor's Office and about 10 cases are being investigated. In the current year, criminal trials are pending in two of the 10 cases referred to the Public Prosecutor's Office, since the criminal acts reported have been confirmed.

**Office of the Superintendent of Securities:**

As part of the regulatory plan of the Office of the Superintendent of Securities, on-site visits are made to broker-dealers and investment fund management companies. In these reviews, a guide has been designed for the following aspects of Act No. 7786:

(a) Verifying that entities which have received, in cash, US$ 10,000 or the equivalent in colones have reported the transaction to the Superintendent;

(b) Ensuring that the entity has internal procedures and controls for preventing the laundering of money derived from illicit activities and that such procedures and controls have been duly approved by the entity's management and board of directors;

(c) Selecting a sampling of customers and reviewing their files to determine whether the entity has requested the relevant documents to identify the customer making the investment;

(d) Verifying that the entity has appointed a compliance officer.

This year, SUGEVAL has made 13 visits to broker-dealers and 13 visits to investment fund management companies. It has also made three special visits to various entities to investigate specific transactions, at the request of CICAD.

In addition, the following regulations are in place with respect to customer identification:

Article 58 (c) of the Act regulating the stock market establishes the following as one of the obligations of broker-dealers:

> "Keeping the necessary records, which shall document clearly and accurately the operations effected, including quantities, prices, names of the contractors and all details required for a full understanding of each transaction, in accordance with such regulatory provisions as may be adopted for this purpose".

Costa Rican Stock Exchange circular No. 74/99 of 15 July 1999 concerns regulations for the prevention and control of money-laundering.

Agreement No. SGV-15, "Instructions on the documentation which must be kept by investment fund management companies with respect to investors in those funds", was issued on 28 August 1999.

**Subparagraph (b) What are the offences and penalties in your country with respect to the activities listed in this subparagraph?**

Article 274 of the Penal Code (Act No. 4573 of 4 May 1970) defines the offence of unlawful association, i.e. associated with criminal intent. The penalty is one to six years' imprisonment and is increased by three to 10 years if the purpose of the association is to commit terrorist acts. Article 374 imposes a penalty of 10 to 15 years' imprisonment for leaders and members of international groups, one of whose aims is to commit terrorist acts.

Article 246 imposes penalties of varying severity, depending on the aggravating circumstances, in cases where fire or explosion is used to create a collective threat to persons or property. Under this article, attempts on the life or physical integrity of public officials, diplomats or consular officials accredited in Costa Rica or passing through its territory are considered terrorist acts and are subject to the penalties imposed for international crimes in article 374. Likewise, article 246 states that for the purposes of that article and of article 374 (on international crimes) and article 274 (on unlawful association), attacks on ships, aircraft on the ground, public transport vehicles and official or public buildings, in

which firearms or explosives are used or a fire or explosion is caused, shall be considered terrorist acts.

Lastly, article 45 establishes the definition of co-perpetrator, article 46 that of instigator and article 47 that of accessory, any of which could be applied to persons who finance terrorist acts. These articles provide the legal basis for prosecuting and punishing those who support terrorist acts by funding them.

With the recent promulgation of Act No. 8204 amending the Act on narcotic drugs, psychotropic substances, unauthorized drugs and related activities, financial activities are now regulated and monitored in order to prevent the penetration of money derived from serious crimes and from all procedures that may serve as a means of laundering such money. To that end, serious criminal offences are defined as conduct constituting an offence punishable by a minimum of four years' imprisonment or a harsher penalty.

In addition to the penalties for serious criminal offences under the Penal Code, further provisions are contained in Act No. 8204, Title IV, Offences and Security Measures (articles 57 to 82), as follows:

"Article 69

The following shall be subject to eight to 20 years' imprisonment:

(a) Any person who acquires, converts or transmits assets in the knowledge that they are derived from a serious criminal offence or who carries out any other act with the aim of concealing their illicit origin or helping the person who took part in the offences to evade the legal consequences of his or her acts;

(b) Any person who conceals the true nature, origin, location, destination, movement of or rights to assets or their ownership, knowing that they are derived, directly or indirectly, from a serious criminal offence.

The penalty shall be 10 to 20 years' imprisonment if the assets are derived from any of the offences related to illicit trafficking in narcotic drugs and psychotropic substances, money-laundering, diversion of precursors or essential chemicals, and related offences.

Article 70

A penalty of one to three years' imprisonment shall be imposed on an owner, director, administrator or employee of a supervised financial entity or a representative or employee of a supervisory and regulatory body who, in the opinion of the court, has through negligence in the performance of his or her functions facilitated the commission of a money-laundering offence.

Article 72

With regard to the offences defined in this section, investigation, trial and sentencing may be carried out by the competent court or authority, regardless of whether the offence of illicit trafficking or related offences were committed in the territory of another State, without prejudice to extradition where the latter is allowed by law."

These amendments to Act No. 7786 make it possible to apply the entire section on financial controls to supervising and detecting both the possible financing and

planning of other serious offences and the laundering of the proceeds of those offences, as well as punishing offenders in accordance with the definitions of offences first established by Act No. 7786 and now by Act No. 8204. These serious criminal offences include acts expressly considered as terrorism by the Penal Code and those subject to penalties exceeding four years' imprisonment which, while not classified as terrorism, correspond to illicit acts which typically constitute terrorist acts.

**Subparagraph (c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.**

As was already explained in the response to paragraph 1 (a), procedures for detecting suspicious transactions have been created through the controls set out in Act No. 8204 and the guidelines issued by the Superintendents' Offices. When such transactions are detected, the competent authorities launch an investigation. All financial entities or entities belonging to a financial group are required to safeguard any information, documents, securities and money which may be used as evidence or proof in the investigation or in a trial. Entities are required to freeze any money or promissory notes which are on deposit with them or in their safekeeping or deposit them with the Central Bank of Costa Rica, informing the authorities of the action taken. These obligations take effect when an entity receives formal notification from the authorities of the existence of an investigation or criminal trial or when the entity itself reports a suspicious transaction to the authorities.

Under Act No. 7786, funds could be frozen only if an order to that effect was issued by a judge. The amendments introduced by Act No. 8204 resolve that situation by empowering financial entities to freeze funds and transfer them to the Central Bank. Act No. 8204 also extends the ban on banking secrecy to securities and tax information, in addition to banking information.

**Subparagraph (d) What measures exist to prohibit the activities listed in this subparagraph?**

As was explained in previous answers, although the offence of financing terrorism does not exist as such in Costa Rican legislation, there are other criminal conducts under which persons committing such acts could be punished.

There are also procedures for monitoring and suppressing suspicious financial transactions which could, in practice, be used in conjunction with other measures to prevent the financing of terrorism.

## Paragraph 2

**Subparagraph (a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?**

The Costa Rican Penal Code contains a number of definitions of offences which, although scattered throughout the Code rather than compiled under a specific

section on terrorism, correspond to various acts which may constitute typical acts of terrorism.

Some articles refer to offences expressly linked to terrorism, for instance:

Article 374, defining international crimes, imposes 10 to 15 years' imprisonment on leaders and members of international groups, one of whose aims is to commit terrorist acts.

Article 274 imposes one to six years' imprisonment for unlawful association, i.e. association with criminal intent, and increases the penalty to three to 10 years' imprisonment if the purpose of the association is to commit terrorist acts.

Article 246 imposes penalties of varying severity depending on the aggravating circumstances, in cases where fire or explosion is used to create a collective threat to persons or property. The second paragraph of this article states that "for the purposes of this article and of articles 274 and 374, the following shall be considered terrorist acts:

(a) The acts described in articles 215 (5) and (6) and 260 of this Code;

(b) Attempts on the life or physical integrity of public officials, diplomats or consular officials accredited in Costa Rica or passing through its territory;

(c) Attacks on ships, aircraft on the ground, public transport vehicles and official or public buildings, in which firearms or explosives are used or a fire or explosion is caused".

Article 215 imposes eight to 12 years' imprisonment for abduction with extortion, in other words, when the victim is held for ransom to achieve monetary, political, social, religious or racial ends. The penalty is increased to 10 to 15 years' imprisonment, inter alia, when the victim is a diplomat or consular official accredited in Costa Rica or passing through its territory and the demands made for his or her release are political or social in nature (subparagraph 5) or when the abduction is carried out in order to demand some measure or concession from the public authorities of Costa Rica or of a friendly country (subparagraph 6). The penalties are increased if the victim is seriously or critically injured (15 to 20 years) or dies (20 to 25 years).

Article 260 refers to the illicit seizure or destruction of aircraft and imposes five to 15 years' imprisonment on any person who seizes an aircraft in flight through violence against persons or property or by using serious threats or who destroys an aircraft in flight or its contents through the use of arms or explosives or by causing an explosion or fire. The penalty is increased to 15 to 20 years' imprisonment when such acts result in death or serious or critical injury.

Other articles of the Penal Code penalize illicit acts which, although not defined as terrorist acts, could be of use in prosecuting and punishing those who commit terrorist acts:

Article 229 imposes six months' to three years' imprisonment for aggravated damage in the following cases:

(a) If the damage is done to items of scientific, artistic, cultural or religious value when, by virtue of their location, they are entrusted to the public or intended for the service, use or reverence of an indeterminate number of persons;

(b) If the damage is done to means or channels of communication, means of transport, roads or railways, bridges or canals, or to plants which produce or distribute water, electricity or sources of energy;

(c) If the act is committed with violence against persons or with threats; and

(d) If the act is carried out by three or more persons.

Article 247 provides that the penalties imposed in article 246 will apply to persons who cause criminal damage by means of flooding, collapse or demolition of a building or any other powerful means of destruction.

Article 248 imposes one to four years' imprisonment on any person who damages or disables dikes or other structures designed to protect the public against disasters, thereby creating the risk that such disasters will occur; if the disaster does occur, the penalty is increased at the discretion of the judge.

Article 250 imposes for four to eight years' imprisonment on any person who, for the purpose of contributing to the commission of offences, manufactures, supplies, acquires, steals or possesses bombs or explosive, inflammable, asphyxiating or toxic materials, or substances or materials for their preparation. The same penalty is imposed on any person who, in a situation where he or she knows or should assume that he or she is contributing to the commission of offences, gives instructions for the preparation of the substances or materials referred to in the previous paragraph. A penalty of two to four years' imprisonment is imposed on any person who has such materials in his or her possession, for purposes other than those indicated above, without the authorization of the appropriate authorities.

Article 251 imposes two to six years' imprisonment on any person who knowingly carries out any act which endangers the safety of a ship, floating structure or aircraft. If the act causes a shipwreck, a running aground or an aviation accident, the penalty is increased to six to 12 years' imprisonment. The penalty is six to 15 years' imprisonment if the accident causes injury to any person and eight to 16 years if it causes death.

Article 252 imposes one to six years' imprisonment on any person who knowingly commits an act which endangers the safety of a train, cable car or other means of overland transport. The penalty is six to 15 years' imprisonment if the act causes a derailment, collision or other serious accident and from eight to 18 years if it results in death.

Article 253 penalizes attacks on public safety, including attacks on plants, engineering works and facilities designed for the production or transmission of electric power or energy sources, and attacks on the security of any means of telecommunication. If such acts cause a disaster, the penalty is three to eight years' imprisonment.

Article 258 penalizes the offence of piracy, imposing three to 15 years' imprisonment on, inter alia, any person who seizes a ship or anything belonging to its crew by means of fraud or violence against its captain. Article 259 increases the penalty to no less than 10 years' imprisonment if the acts cause the death of any person who is on board the ship that is attacked.

Article 261 imposes a penalty of three to 10 years' imprisonment on any person who poisons, contaminates or adulterates, in a manner hazardous to health,

water, foodstuffs or medicines intended for public or community use. If the act results in the death of a person, the penalty is eight to 18 years' imprisonment.

It should be noted that most of the above offences are punishable by prison terms of over four years, which means that they may fall within the scope of the new Act No. 8204 and that the penalties and financial controls provided for in that Act may be applicable to them.

With regard to arms control, Costa Rica has an Arms and Explosives Act (Act No. 7530 of 10 July 1995) which contains a number of provisions penalizing different offences related to illegal possession of weapons. Section X, entitled "Penalties", contains the following provisions:

Article 88. Possession of prohibited weapons. A penalty of two to five years' imprisonment is imposed on any person who possesses weapons which are prohibited or reserved exclusively for the use of the police.

Article 90. Stockpiling of prohibited weapons. A penalty of three to six years' imprisonment is imposed on any person who stockpiles weapons which are classified as prohibited. Stockpiling is defined as the possession of three or more prohibited weapons.

Article 91. Importation of and trafficking in prohibited materials. A penalty of three to eight years' imprisonment is imposed on any person who imports into the country or traffics in arms, ammunition, explosives and materials which are classified as prohibited.

Article 92. Smuggling of permitted weapons. A penalty of three to seven years' imprisonment is imposed on any person who smuggles into the country weapons which are classified as permitted.

Article 93. Illicit trade in weapons. A penalty of two to five years' imprisonment is imposed on dealers in arms, ammunition and explosives who acquire such goods without verifying that they come from a legal source.

Article 94. Illegal manufacture of weapons. A penalty of two to five years' imprisonment is imposed on any person who manufactures or exports arms or ammunition without the necessary permit.

Article 95. Managerial misconduct. A penalty of six months' to three years' imprisonment is imposed on managers of factories, industrial plants, workshops, warehouses and other establishments devoted to weapons-related activities if they fail to comply with the conditions and obligations set out in chapter VII of the Act.

Article 96. Supply of weapons. A penalty of one to three years' imprisonment is imposed on any official or government employee who in any way provides, lends or supplies weapons in his safekeeping to persons, entities or groups which are not authorized by law to have them, provided that the act does not constitute the offence of misappropriation defined in the Penal Code.

Article 97. Illicit bearing of permitted weapons. Except as provided in article 8 of the Act, a penalty of one to three months' community service is imposed on any person who carries a knife with a blade over 12 centimetres long. Such service is to be performed in establishments working for the common good or useful to the community, under the supervision of their authorities.

Article 98. Alteration of weapons. A penalty of three months' to one year's imprisonment is imposed on any person who possesses one or more permitted weapons whose serial number, manufacturer's marks or manufacturing characteristics have been altered or erased.

Article 99. Action by government authorities and the judiciary. If there has been a breach of the rules contained in this chapter, the authority which arrests a person suspected of having committed any of the illicit acts defined above must seize or confiscate the weapons involved and the Public Prosecutor's Office may not return them to the accused during the trial.

Overall arms control efforts include security and surveillance operations in various areas of the country with respect to drugs, stolen vehicles, undocumented persons and arms shipments. These operations also include roadside checks on several of the country's roads and overflights of land and sea areas.

As a result of these efforts, a total of 1,150 light weapons were confiscated in Costa Rica between 1 January and 15 December 2001.

Intelligence work is also carried out, using information from public sources such as State institutions and restricted sources such as the Special Anti-Narcotics Police, the International Criminal Police (INTERPOL), the United States Drug Enforcement Administration, the Directorate of Intelligence and Security, the police files of the Ministry of Public Security and the criminal files kept by the judiciary.

**Subparagraph (b) What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?**

Apart from the intelligence sources mentioned in the previous answer, in order to prevent terrorist acts there are a number of actions and measures that the Costa Rican authorities take to identify suspicious persons. For example, the national intelligence community pays special attention to the migratory movements and the activities within the country of persons who fit a certain profile, whether because of nationality or ideological or religious persuasion or because there is reason to suspect that they might plan or carry out terrorist acts.

A vital element of intelligence work is the exchange of information and the coordination of actions at the inter-agency level among the judicial police, the administrative police, the municipal police and the State intelligence service. The exchange of information with other countries and intelligence services is also of great importance and the Government has, to that end, signed multilateral protocols with most States in the region and some outside it. These protocols are activated by various means when information comes to light about some action or suspected action in one of the countries of the region.

Intelligence services in North, Central and South America and in some countries outside the region remain in communication and regularly exchange information on subversive activities and organized crime in all its forms. This has contributed to the detection of individuals wanted by INTERPOL and by the United States Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA) and Bureau of Alcohol, Tobacco and Firearms (ATF), resulting in their arrest and extradition to the countries where they are wanted.

The cooperation and exchanges of information that Costa Rica maintains with other countries and agencies occur at four levels:

**First level**

Within the framework of the Association of Chiefs of Police of Central America and the Caribbean, through multilateral agreements on communication, exchanges of information, joint operations and training.

**Second level**

Within the intelligence community comprising North and Central America and Panama, Colombia, Ecuador, Venezuela and Peru and bilaterally with Spain, Italy, Germany, Israel, Taiwan and Japan, under cooperation agreements on the exchange of information, training and joint operations.

**Third level**

Among the Directorate of Intelligence and Security, the Ministry of Public Security and the federal offices of the FBI, DEA and ATF, under informal agreements on cooperation, the exchange of information and joint operations with respect to terrorism, arms trafficking and illegal migration.

**Fourth level**

Between the Directorate of Intelligence and Security and the INTERPOL information network, under an official agreement concerning fulfilment of requests for information and assistance in locating fugitives from justice of other nationalities who are in Costa Rica and Costa Rican fugitives who are in other countries.

With regard to civil aviation safety, Costa Rica has been a party to the Convention on International Civil Aviation since 1947, including its 18 annexes, and is one of the 187 States members of the International Civil Aviation Organization (ICAO). Currently, Costa Rica is one of the 33 countries members of the ICAO Council. ICAO establishes standards and recommended practices with the aim of improving, strengthening and standardizing international aviation through the issuance of annexes. Costa Rica meets all those standards.

Following the 11 September attacks, the Directorate of Civil Aviation issued two operational bulletins for flight operators setting forth strict measures for increasing security at airports and on flights, such as:

- Prohibiting the carrying of certain items or materials in either checked baggage or hand baggage;
- Requiring inspection of such baggage prior to check-in;
- Allowing only passengers into the airport;
- Carrying out comprehensive periodic inspections;
- Eliminating advance check-in of baggage on aircraft, among other measures.

**Subparagraph (c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.**

The granting of refugee status in Costa Rica is governed by the following norms:

(a) The Constitution (articles 19 and 31);

(b) The 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto;

(c) Act No. 6079 of 16 August 1977 authorizing Costa Rica's accession to the Geneva Convention and incorporating it into Costa Rica's legal system;

(d) The Migration and Aliens Act No. 7033 of 24 April 1986 and its implementing regulations;

(e) Decree No. 14845-G of 29 August 1983 establishing the administrative procedures for the granting of refugee status and creating the Office for Refugees, now the Department of Refugees, which functions under the Directorate of Migration.

The above-mentioned Decree defines, in keeping with the provisions of the Convention relating to the Status of Refugees, the conditions for granting refugee status. Thus, a refugee is defined as a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it". A refugee, therefore, may be a national of any country or a stateless person, that is, a person without a nationality.

The Decree created a specialized refugee agency, originally called the Office for Refugees and now called the Department of Refugees, which functions under the Directorate of Migration and is the agency competent to grant refugee status.

Costa Rica has a clearly defined procedure for granting refugee status. In accordance with Decree No. 14845-G, the procedure is as follows:

(a) Applicants for refugee status submit an application to any Migration Office, which forwards it immediately to the Department of Refugees. On receiving the application, the Department begins the individual qualification procedure;

(b) Applicants fill out a questionnaire in which they not only provide personal data but also explain in writing why they are applying and indicate whether they have left any family members behind in their own country;

(c) Applicants are issued a temporary document, which does not authorize them to work but is simply intended to certify that a procedure is under way to regularize their migration status and to give them access to certain social services;

(d) Subsequently, an individual file is opened on both the applicant and his or her dependants;

(e) Applicants are interviewed confidentially about their reasons for leaving their country of origin. The interview is exhaustive and is conducted according to pre-established guidelines, since it is essential to assess the person's situation and eligibility for refugee status. In the case of families, all adult members, not just the head of household, are interviewed;

(f) Applicants must complete their file by supplying the remaining items required by law (affidavits, fingerprints) and other documentation that they are able and willing to furnish;

(g) The Department of Refugees has eligibility officers who have a sound knowledge of refugee matters and who must also keep abreast of the conflicts going on around the world. After the interview is over, they must make an objective analysis, that is, they must study the country of origin, its current situation and how the conflicts occurring there may have affected the applicant, prompting him or her to flee the country and even to fear for his or her life once outside its territory. This analysis is supplemented by a subjective analysis of the fear expressed by the applicant;

(h) An investigation is also conducted into the applicant's migratory movements to determine whether, after entering Costa Rica with the intention of seeking refuge, he or she left the country and, if so, where he or she travelled;

(i) INTERPOL is contacted, through the Directorate of Intelligence and Security, to verify that the applicant does not have a criminal record;

(j) Currently, criminal records are requested from the country of origin, for which purpose certification issued by the competent authority must be submitted;

(k) Once all the requisite elements have been assembled and the relevant investigations carried out, the eligibility officers draw up a report giving an overall assessment of the facts as stated, analysing them in the light of the legislation currently in force and the validity of the application; a recommendation is then made and a decision taken, indicating the reasons;

(l) Refugee status is not granted if the applicant is not subject to persecution, if the facts as stated do not accord with the situation prevailing in the country of origin or residence, if there have been unexplained migratory movements, or if the applicant has a criminal record. In keeping with article 1, section F, of the Convention relating to the Status of Refugees, "the provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

> (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
>
> (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
>
> (c) He has been guilty of acts contrary to the purposes and principles of the United Nations".

(m) If it is determined that an applicant for refugee status has committed an ordinary crime or a crime against humanity or has participated in such crimes, which include drug trafficking and terrorism, the above framework allows an exclusion

clause to be applied, since, even though the applicant may be considered a refugee because his or her life is in danger, he or she is would be denied refugee status as a person not deserving of international protection;

(n) In the circumstances described in (l) and (m) above, applicants may file administrative and judicial appeals against the decision of the Directorate of Migration. If the applicant exhausts all remedies to no avail or simply does not make use of them before the right to appeal lapses, the temporary document is withdrawn and deportation proceedings begin, for which the Directorate of Migration is competent under article 118;

(o) If a person has been granted refugee status and the Government finds, in the light of new facts, that he or she did not tell the truth, the Directorate of Migration and Aliens, which has exclusive competence in this regard, will revoke refugee status in accordance with the relevant laws and regulations. Once refugee status has been revoked, the person will be expelled in accordance with the provisions of article 120 of the Migration Act. Expulsion is defined as an "order issued by the Ministry of the Interior and Police under which a resident alien must leave the national territory within a stipulated period of time";

(p) The expulsion of a refugee may be ordered only for well-founded reasons of national security or for the maintenance of public order. In such cases, the Office of the United Nations High Commissioner for Refugees (UNHCR) must first be informed and the refugee must be allowed a reasonable period of time in which to leave the country and resettle in another country, according to the options available to him or her. In no case may the refugee be returned to the country where his or her life or freedom would be threatened on account of persecution.

The foregoing shows that Costa Rica has the necessary instruments and legislation to deny an application for refugee status or to revoke refugee status in respect of persons who do not meet the requirements of the law, and thus to safeguard the country's security. Cooperation and communication mechanisms are in place between intelligence agencies and migration authorities in order to prevent the granting of refugee status to persons who may have a record as terrorists or who, in accordance with the provisions of the Convention, are not eligible for international protection.

**Subparagraph (d) What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.**

The surveillance, intelligence and information-sharing mechanisms described and the laws cited above seek to prevent terrorists from acting within the country. Other procedures are also used to control the movement of persons and objects to and from the country. For example, the mountainous areas of the country's northern and southern borders are patrolled to prevent undocumented persons from entering the country through what are known as "sieves" or "blind spots" in those areas, which many people know about and use.

The Coast Guard is responsible for patrolling the territorial and patrimonial seas, the aim being to make an exhaustive technical inspection of any vessel found in those waters in order to detect any irregularity on the vessel, such as the presence of weapons, drugs or illegal immigrants.

The Ministry of Public Security carries out screening at the country's main ports and airports. Daily inspections are conducted, with the help of trained dogs, to detect explosives or drugs that a person or organization may be trying to bring into or take out of the country. Other action includes inspections in response to bomb threats, dragnets of alleged criminals, quarterly drug-control flight checks and the inspection of cargo entering and leaving the country's airports.

Article 296 (b) of Civil Aviation Act No. 5150 of 14 May 1973 imposes a fine of 100 minimum wages on any pilot who transports weapons, dangerous goods or articles, flammable materials, explosives or the like without proper authorization. Article 300 of the Act imposes a minimum fine of 20 minimum wages, depending on the seriousness of the act, on any air service company operating in the country or any aviation technical personnel or other person found guilty of a breach of the Act, its implementing regulations or related provisions not included in its articles.

In accordance with the regulations governing migration, the Directorate of Migration strictly enforces the law concerning migration controls on the entry or departure of persons and concerning the residence or stay of aliens. It has its own police force, the Migration Police, which, pursuant to chapter three of the Migration Act, was created as a migration control and surveillance force responsible for enforcing the legal provisions governing the entry, stay and activities of aliens, according to their migration status in the country.

For migration control purposes, the Migration Police conduct inspections of hotels, inns, lodging houses, guest houses, motels and the like. Dwelling houses are not inspected without a search warrant or unless allowed by law. The Migration Police are also empowered to enter workplaces during working hours; check identity cards and residence permits, means of payment and welfare cards; visit places of entertainment or theatres; ask to see personal identification; and question and take statements from alleged offenders and detain them, when the law allows, for the time strictly necessary. They also receive and follow up complaints made against aliens.

The powers granted to the Migration Police enable them to check on and determine the migration status of aliens. If they find an irregularity, the relevant investigations are made to confirm whether the alien is in compliance with the country's laws.

If an alien is found to be in an irregular situation (without papers or with papers but without authorization to stay in the country), deportation proceedings are initiated in accordance with the provisions of article 118 of the Migration Act.

If it is determined that a legal resident alien is not complying with the terms imposed when residence or entry was granted or is violating the provisions of the Migration Act, his or her residence permit is revoked and he or she is subject to expulsion as provided for in article 120 of the Act.

It should be noted that the Migration Police also carry out joint operations with other police forces, such as the regular police and the Judicial Police; these coordinated, planned joint actions ensure more effective migration control.

**Subparagraph (e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.**

Although, as explained in the responses to previous questions, terrorist acts are not specifically characterized in our Penal Code as independent criminal offences, the code does define a number of types of criminal conduct that may apply in the case of persons committing terrorist acts. Most of these criminal offences entail severe penalties of more than four years' imprisonment. Moreover, with regard to principals and accessories (articles 45 to 49), the Code establishes the possibility of punishing persons who have collaborated in the commission of the act, be it as co-perpetrators, accessories or instigators.

Articles 247, 248 and 250 provide for the punishment of criminal damage, the causing of disasters and the manufacture or possession of explosives.

Articles 251 to 253 define crimes against means of transport and communication.

Article 272 is an important instrument for combating terrorism, in that it imposes a penalty of one to six years' imprisonment for belonging to an unlawful association, increased to three to 10 years if the purpose of the association is to carry out terrorist acts.

Title XI of the Penal Code, entitled "Crimes against the security of the nation", includes articles 275 and 276 defining the crimes of treason and aggravated treason, for which the penalties range from five to 10 years' and 10 to 25 years' imprisonment, respectively. These offences basically involve taking up arms against the nation.

Lastly, article 277 establishes the same penalties as above when the acts are committed against a State that is an ally of Costa Rica in a war against a common enemy.

There have been no convictions in Costa Rica for terrorist acts. A conviction was handed down, however, against a subversive group known as "La Familia", whose members were convicted of the crime of unlawful association with criminal intent and some of them also for the crime of homicide, with sentences ranging from 15 to 25 years' imprisonment.

**Subparagraph (f) What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.**

Costa Rica has signed or is about to sign a number of treaties on judicial assistance in criminal matters:

(a) Central American Treaty on Mutual Legal Assistance in Criminal Matters, signed on 29 October 1993 and ratified by Act No. 7696 of 30 October 1997;

(b) Treaty on extradition and mutual juridical assistance in criminal matters between Costa Rica and Mexico, signed on 13 October 1989 and ratified by Act No. 7469 of 20 December 1994;

(c) Convention on judicial assistance in criminal matters between Costa Rica and Paraguay (pending approval by the Legislative Assembly);

(d) Convention between Costa Rica and Argentina on mutual judicial assistance against illicit drug trafficking (pending approval by the Legislative Assembly);

(e) Agreement on judicial cooperation in criminal matters between Costa Rica and Colombia (under negotiation);

(f) Convention on judicial cooperation in criminal matters between Costa Rica and Peru (under negotiation);

(g) Memorandum of understanding on judicial cooperation between Costa Rica and Colombia (primarily for combating illicit drug trafficking).

In addition, Costa Rica is a party to the Inter-American Convention on the Taking of Evidence Abroad and its Additional Protocol and to the Inter-American Convention on Letters Rogatory; the Inter-American Convention on Mutual Assistance in Criminal Matters is in the process of being sent to the Legislative Assembly for approval.

It can be seen from the foregoing that there is no specific framework for obtaining evidence in criminal proceedings relating to the financing of terrorist acts to which Costa Rica belongs for now; however, the instruments listed above can provide a general legal framework for exchanging such information. As explained in the response to paragraph 3 (d), the International Convention for the Suppression of the Financing of Terrorism is currently before the Legislative Assembly for approval.

It should also be pointed out that, within the framework of the Meetings of Ministers of Justice and/or Attorneys-General of the Americas, countries, including Costa Rica, are currently identifying and reviewing the instruments in force in the inter-American system with a view to promoting the ratification of most of them and broader and closer cooperation in the legal and judicial spheres.

In addition, as permitted by articles 187 et seq. of the Code of Civil Procedure, whenever specific information relating to a particular investigation is requested by a country, the procedure and the cooperation of Costa Rica take place through the registry of the court and the Ministry of Foreign Affairs.

Lastly, it should be pointed out that Act No. 8204, which comprehensively amends the Act on narcotic drugs, psychotropic substances, unauthorized drugs and related activities and extends its purview (financial controls and definition of offences relating to the laundering of money derived from serious criminal offences) to cover all offences subject to penalties greater than four years' imprisonment, provides as follows:

> "Article 8. To facilitate judicial or police investigations and action in connection with the offences defined herein, the national authorities may offer their cooperation to and receive cooperation from foreign authorities for the following purposes:
>
> "(a) To take depositions or receive testimony;
>
> "(b) To transmit certified copies of judicial or police documents;

"(c) To carry out inspections and effect seizures and secure the goods or assets seized;

"(d) To examine objects and places;

"(e) To furnish information and duly certified evidence;

"(f) To deliver certified copies of documents and files related to the case in question, including banking, financial and commercial documentation;

"(g) To identify or detect, for evidentiary purposes, the product, assets, instruments or other items;

"(h) To transmit all affidavits in the case of controlled delivery;

"(i) To carry out all other procedures included in the Vienna Convention and in any other international instrument adopted by Costa Rica".

**Subparagraph (g) How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?**

Under the Police Act, there are two police units which are in charge of maintaining the respective border controls: the Migration and Aliens Police, responsible for supervising and controlling the migratory movements of both nationals and aliens; and the Border Police, charged with monitoring and safeguarding land, sea and air borders, including public buildings in which customs and migration activities are carried on.

With regard to border controls, chapter three of the Migration Act stipulates that "all persons arriving in the country shall be subject to the corresponding immigration control to determine whether or not they qualify for admission under the legal and statutory provisions in force".

The same chapter also states that "the entry of nationals and aliens to the national territory shall take place, irrespective of their admission status, solely through the designated land, sea or air entry points". In addition, "the migration authority, when carrying out the entry control, shall reject aliens who come under any of the situations provided for in article 116 of the Migration Act", which sets out in detail the grounds for rejection. Such grounds relate primarily to the absence of valid travel documents or of an entry visa.

Furthermore, pursuant to the regulations in force, the State, through the Directorate of Migration, restricts for security reasons the entry of nationals of certain countries known internationally, among other things, for their connection with terrorism. For that purpose, it imposes a series of restrictions aimed at discouraging such nationals from entering the country, such as requiring a visa approved solely by the current Director of Migration and the payment of a security deposit. In this way, visa regulations for the entry and stay of aliens in the country are issued and are known not only to all employees of the Directorate of Migration but also to those who assist in immigration control: the police and migration officers abroad (consuls).

By way of support for this regulatory framework and in execution of the functions entrusted to the Directorate of Migration, border containment operations

are carried out jointly in coordination with the Border Police, who assist in carrying out immigration control.

Costa Rica has made considerable efforts to remain in the vanguard in the area of secure identity papers and travel documents. As a result, any sign of forgery or alteration is detected thanks to the use of high-security techniques in the issuance of those documents. These security measures are constantly being revised, since they rapidly lose their effectiveness as forgers constantly refine their methods for thwarting the security techniques used in issuing identity, residence and travel documents.

The Directorate has endeavoured to make use of various security features in the official documents that it issues. For that purpose, it has considered three kinds of features, comprising those that can be seen with the naked eye and others that can be detected only through the use of special instruments such as ultraviolet light, magnifiers and optical scanners.

Such features include:

- Digital photography;
- Holograms, made up the name of the country and the coat of arms of Costa Rica;
- Electronic signature of the bearer of the document;
- Safety thread for binding the pages of the document;
- Coloured filaments, visible under ultraviolet light;
- Watermarks on the different pages;
- What are known as "guilloche" patterns, a type of mark represented by a number of interwoven lines forming a spiderweb-like design.

Inside the new passport, on the page containing the photograph, there is a type of adhesive that protects the photograph and the holder's biographical data. When this page is examined against the light, the coat of arms of Costa Rica is visible. On the remaining pages of the document, one can also observe several times, in different positions, a line on the left side of the page that reads "REPUBLIC OF COSTA RICA". In addition, it has ultraviolet disc devices and blue and red fibres.

Lastly, on its title page the coat of arms of Costa Rica appears in colour and, at the bottom, a guilloche with the words "REPUBLIC OF COSTA RICA" in a mahogany colour similar to that of the cover page.

Emphasis has been placed on the issuance and circulation of both travel and residence documents; at present, the relevant studies are being carried out for replacing the residence document with a more secure one.

The Directorate of Migration is constantly exchanging information on the circulation of forged or altered travel documents, as well as authentic documents being used internationally. It is also promoting training aimed at the detection of forged or altered documents in order to ensure that officers responsible for immigration control and those responsible for conducting studies with a view to the granting of refugee status or residence in the country have information on this issue and take the appropriate measures.

The immigration control performed at border crossing points includes checking the authenticity of the travel document, the bearer's personal data and any watermarks or other marks on the document. In addition to checking the passport or other permitted travel document, an effort is made to analyse the bearer's attitude; if he or she behaves suspiciously, the competent authority is alerted in order that appropriate measures may be taken. The accent of the bearer of the document is also studied: if it differs from the nationality shown on the travel document, it might be assumed that there is something abnormal. Other aspects are also observed, such as the bearer's luggage, his financial standing and the type of clothing that he is wearing at the time. The bearer's itinerary is also reviewed, since the use of an unusual or illogical route to reach the country might suggest other intentions behind the trip.

## Paragraph 3

**Subparagraph (a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?**

The Directorate of Migration studies reports from the Directorate of Intelligence and Security and INTERPOL, which are used not only to check whether there are any grounds for denying entry to the country, but also for refusing to grant residence. Persons wishing to reside in the country are also required by law to provide certification from their country of origin or residence, as well as from Costa Rica, that they have no criminal record. Such records are actually requested upon each renewal of the residence document.

It is important to point out that within the framework of the Regional Conference on Migration, in which Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States participate, there is a regional network of liaison officials for the regular exchange of information on migrant trafficking, one of whose functions is to exchange information on trafficking networks, routes and documents used and on the adoption of measures to combat trafficking in migrants.

A meeting of the network was held in Costa Rica on 15 November 2001. The topics discussed included terrorism, since it is in large measure linked to the phenomenon of migration, in that terrorists move from one country to another and use special methods to conceal their true identities. Those methods include the use of forged travel documents, impersonation or identity theft and the use of authentic documents obtained illegally.

The network decided to bring to the attention of the region's ministers a series of measures for combating trafficking in persons, including the following: technical training in the detection of fraudulent documents and their bearers; a review of the security methods employed in the issuance of travel and identity documents and the granting of visas; coordination among the competent internal authorities that conduct migration controls at entry and departure points; and the exchange of information.

Apart from the aforementioned efforts, as explained in the responses to other questions, there are ongoing exchanges of information among various police and

intelligence groups, both national and international. The following elements, in particular, might be mentioned:

- The use of new technologies for the secure sending and receiving of information, such as data encryption;
- The holding of meetings among the intelligence community (although the number of meetings has diminished) to review and update the information-sharing protocols used for reporting on terrorism and arms trafficking;
- The designation of a focal point in each member country of the intelligence community, so as to concentrate the sending and receiving of information in a single person, thereby protecting the information by means of direct communication;
- The participation of police institutions in intelligence work in coordination with States' security organs, in respect of both terrorism and arms trafficking;
- Ongoing coordination with migration authorities of the region on issues relating to illegal migration and travel documents.

In the area of civil aviation, there is no legal or statutory obligation to report or to coordinate information on the perpetration of terrorist acts. Nevertheless, there has always been direct communication with Directorates of Civil Aviation concerning the various issues or incidents that have arisen in connection with aviation. Article 18, paragraph XV, of the Civil Aviation Act establishes the legal authority of the Directorate of Civil Aviation to investigate aviation accidents that occur in the country, conduct the corresponding investigation and recommend to the Civil Aviation Board the appropriate sanction to be applied.

The Regulations for the Investigation of Aviation Accidents and Incidents (RAC 13), Decree No. 28641-MOPT, published in the Special Edition of the Official Gazette, No. 95 of 18 May 2000, establish guidelines for carrying out investigations of accidents and the obligation of the Directorate of Civil Aviation to report the occurrence of an accident, whenever the aircraft involved is a foreign one, to the country of registration and the State in which the aircraft was manufactured. It is also required to notify the International Civil Aviation Organization (ICAO) if the weight of the aircraft that sustained the accident exceeds 12,500 pounds.

The Regulations for the Risk-free Transport of Dangerous Goods by Air (RAC 18) establish mechanisms for the transport of goods which involve a considerable risk to health, safety or property on the part of airlines. Similarly, the Directorate of Civil Aviation must prevent accidents and investigate those that occur in connection with the transport of dangerous goods, such as explosives and radioactive substances.

**Subparagraph (b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?**

With regard to migration, as mentioned above, the necessary mechanisms exist at the regional level for exchanging information; at the domestic level, the Directorate of Migration requests information from the Directorate of Intelligence and Security and from INTERPOL. In addition, persons wishing to reside in the country, whether temporarily or permanently, are required to provide certification that they have not committed any crimes in their country of origin or residence, a

prerequisite for the granting of a status allowing them to remain in the country legally.

The Directorate of Migration also provides information on the migration status of aliens to the various authorities, upon request.

**Subparagraph (c) What steps have been taken to cooperate in the areas indicated in this subparagraph?**

Current efforts by Costa Rica to cooperate multilaterally in preventing and suppressing terrorist attacks are concentrated primarily in four forums: the United Nations, the Organization of American States (OAS), the Central American Integration System (SICA) and the Rio Group.

**(a) United Nations**

At the United Nations, Costa Rica has repeatedly condemned terrorism in all its forms and manifestations. On 13 November 2001, its Minister for Foreign Affairs solemnly declared that "Costa Rica realizes that terrorism is an extremely grave crime against humanity that victimizes the innocent civilian population and endangers the international community as a whole. For this reason, we condemn terrorism categorically in all its forms and manifestations, wherever and by whomsoever committed, while we proclaim that there is no political, philosophical, racial, ethnic or religious justification that legitimizes the commission of this crime".

Costa Rica has been an active participant in the work of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996, entrusted with drafting a series of sectoral conventions for the prohibition and punishment of terrorism in all its forms. It has occupied a Vice-Chairmanship of that Committee and has been a member of the Group of friends of the Chairman from the outset. It should be noted that the Costa Rica delegation played a key role in the adoption of the International Convention for the Suppression of Terrorist Bombings and that the text finally adopted was introduced and sponsored exclusively by Costa Rica (A/C.6/52/L.13; see also A/52/653).

In the negotiations on a comprehensive convention against terrorism, Costa Rica's delegation has worked for the adoption of an instrument that will be effective in combating terrorism. A comprehensive definition of terrorism has been proposed (A/C.6/55/WG.1/CRP.15), based on the wording and agreements adopted in pre-existing sectoral instruments. An effort has been made to protect the procedural rights of accused persons and persons under investigation, preserve the integrity of the legal regime governing refugees and of Latin American customary law on political asylum and reaffirm the customary principle of non-refoulement (see A/C.6/55/WG.1/CRP.2 and A/C.6/55/WG.1/CRP.3). Costa Rica has stressed the need to differentiate between terrorist activities and activities carried out in accordance with international humanitarian law in the context of an armed conflict, international or otherwise. Its delegation has opposed the blanket exclusion of members of the armed forces from the scope of the Convention.

During the general debate in the General Assembly, the Minister for Foreign Affairs of Costa Rica called upon all delegations to be flexible and to agree to the

consensus formula proposed by Ambassador Richard Rowe of Australia to solve the outstanding issues in the negotiation of that instrument.

**(b) Organization of American States (OAS)**

In OAS, Costa Rica, during its chairmanship of the Permanent Council, convened and presided over the twenty-third Meeting of Consultation of Ministers for Foreign Affairs, held in Washington, D.C., on 21 September. The meeting adopted the resolution "Strengthening Hemispheric Cooperation to Prevent, Combat and Eliminate Terrorism", which provides for joint action and measures to eradicate terrorism from the region, including activating the Inter-American Committee Against Terrorism (CICTE), drafting an Inter-American Convention against Terrorism and requesting the Committee on Hemispheric Security to speed up its work in preparation for a special conference on security. As part of those efforts, Costa Rica has resumed its participation in the Inter-American Defence Board and is participating actively in the drafting of the Inter-American Convention against Terrorism.

It is also worth mentioning that the Meeting of Consultation of Ministers for Foreign Affairs subsequently reconvened as the Organ of Consultation in application of the Inter-American Treaty of Reciprocal Assistance, to which Costa Rica is a party, and adopted a resolution entitled "Terrorist threat to the Americas". The resolution states that the 11 September attacks in the United States are an attack on all the States parties to the Rio Treaty and pledges continent-wide solidarity in combating terrorism.

**(c) Central American Integration System**

Costa Rica is also a full participant in the efforts being made at the Central American level. The Heads of State and Government of Central America met in Tegucigalpa on 19 September 2001 to condemn the 11 September terrorist acts and drafted a set of guidelines for joint regional efforts to combat terrorism. As part of its mandate, the Central American Security Commission, made up of the Deputy Ministers for Foreign Affairs, Defence and Security, met in Tegucigalpa on 27 September and developed the basic elements of a Central American plan for comprehensive cooperation to combat terrorism and related activities. It also instructed the subcommissions on security, defence and legal affairs to meet to complete drafting of that plan.

The subcommissions met in Tegucigalpa on 23 and 24 October and approved a series of strategic actions for combating terrorism at the regional level. Those measures principally involved the exchange of information, the strengthening of security at borders, ports and airports, increased monitoring and control of migration flows in order to halt any movement of persons associated with terrorism and the strengthening of criminal legislation. Costa Rica is working to implement those measures, as indicated in the responses to other questions.

**(d) Rio Group**

The Rio Group convened a meeting of legal experts on 5 and 6 November 2001 in Santiago, Chile, to review the action being taken by member States to implement Security Council resolution 1373 (2001). Costa Rica, as a member of the Troika and as Pro Tempore Secretariat of the Group beginning in January 2002, sent

a delegation to the meeting, which provided a valuable opportunity to exchange information and define measures for the Group's follow-up with regard to the issue of terrorism. When it takes over as Pro Tempore secretariat of the Group in January 2002, Costa Rica will be responsible for coordinating work in that area.

On 14 November 2001, the Rio Group issued a statement on the occasion of the meeting held in New York during the fifty-sixth session of the General Assembly of the United Nations. In that statement, the Ministers for Foreign Affairs of the Rio Group reiterated their total rejection of international terrorism and reaffirmed their support for current efforts to combat it, including implementation of the mandates established by various United Nations instruments, coordination and exchanges of information, harmonization of national legislation and measures to prevent and suppress the financing of terrorist acts.

At the domestic level, the Ministry of Public Security, through the police information centre, is working to improve criminal investigation procedures and the compilation, analysis and checking of data on criminal acts, with a view to providing reliable information which will enable institutional and judicial bodies to function effectively, focusing on aspects of interest in the implementation of policies for preventing, reducing and combating crimes and other illicit acts involving prior organization.

The Ministry of Public Security also hosts police officers from other countries, such as France, Spain and Colombia, under bilateral conventions which provide for exchanges of both information and training.

**Subparagraph (d) What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?**

One of the first steps taken by Costa Rica following the 11 September attacks was to complete the process of ratification of or accession to the international conventions relating to terrorism. Costa Rica is currently a party to the following conventions:

(a) International Convention for the Suppression of Terrorist Bombings, signed in New York on 15 December 1997. Approved by Act No. 8080, published in the Official Gazette of 1 August 2001 and ratified on 6 August 2001;

(b) Convention on the Marking of Plastic Explosives for the Purpose of Detection, and the annex thereto, signed at Montreal on 1 March 1991. Approved by Act No. 7534, published on 28 August 1995, and ratified on 30 January 1996;

(c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed in New York on 14 December 1973. Approved by Act No. 6077, published on 23 September 1977, and ratified on 2 November 1977;

(d) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971. Approved by Act No. 5299, published in the Official Gazette of 5 September 1973, and ratified on 20 September 1973;

(e) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. Approved by Act No. 4759, published in the Official Gazette of 20 May 1971, and ratified on 9 July 1971;

(f) Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. Approved by Act No. 5067, published in the Official Gazette of 28 September 1972, and ratified on 22 January 1973;

(g) OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, signed at Washington, D.C. on 2 February 1971. Approved by Act No. 5295, published in the Official Gazette of 24 August 1973, and ratified on 16 October 1973;

(h) Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, signed at Washington, D.C. on 13 November 1997. Approved by Act No. 8042, published in the Official Gazette of 21 November 2000, and ratified on 26 April 2001.

Costa Rica is not yet a party to the conventions and protocols listed below, but all of them, with the exception of the Convention against Transnational Organized Crime and the three protocols thereto, are currently before the Legislative Assembly for approval:

(a) International Convention for the Suppression of the Financing of Terrorism, signed at New York on 9 December 1999 (under review, before the International Relations Committee, File No. 14,556);

(b) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed at Rome on 10 March 1988 (under review, before the International Relations Committee, File No. 14,558);

(c) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on 10 March 1988 (reviewed and approved, File No. 14,555);

(d) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (reviewed and approved, File No. 14,559);

(e) Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 (under review, before the International Relations Committee, File No. 14,560);

(f) International Convention against the Taking of Hostages, signed at New York on 17 December 1979 (reviewed and approved, File No. 14,557);

(g) Convention against Transnational Organized Crime, signed at New York on 15 November 2001;

(h) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;

(i) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

(j) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

**Subparagraph (e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.**

As explained in the replies to previous questions, the Government of Costa Rica has taken a series of steps to combat terrorism more effectively; these include ratification of or accession to the conventions and protocols which it has not yet ratified. The purpose of these measures is to implement the international instruments mentioned, including Security Council resolutions 1269 (1999) and 1368 (2001).

**Subparagraph (f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.**

As stated under paragraph 2 (c), Costa Rica's policy on refugees is governed by articles 19 and 31 of the Constitution; the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto; Act No. 6079 of 16 August 1977, which authorized Costa Rica's accession to the Geneva Convention and incorporated it into Costa Rica's legal system; the Migration and Aliens Act (Act No. 7033) of 24 April 1986 and its implementing regulations; and Decree No. 14845-G of 29 August 1983, which established the administrative procedures for the granting of refugee status and created a special office to handle such cases, the Department of Refugees, which functions under the Office of Migration and Aliens.

As stated under paragraph 2 (c) (where the entire procedure for considering applications for refugee status is described), before a decision is taken on the application and therefore before refugee status is granted, information is requested from INTERPOL and applicants are required to provide certification from their country of origin or residence that they do not have a criminal record. Furthermore, in their personal account (description of persecution, provided during an interview, applicants must indicate not only the circumstances which are compelling them to seek refuge, but also whether they have been involved in any organization linked to acts of violence or have committed any crime; this testimony is signed by the applicant. However, if refugee status has been granted to a person who, on the basis of the information available, meets the criteria set forth in the 1951 Convention and new facts subsequently come to light which show that the person is not eligible for international protection and did not tell the truth, refugee status is revoked and expulsion is ordered as described in subparagraph (p) of the answer to paragraph 2 (c) in this report.

A terrorist's application for refugee status has been denied on at least one occasion in Costa Rica. In 1996, the Department of Refugees in the Directorate of Migration and Aliens received an application for refugee status from a Spanish citizen (File No. 28913) who was wanted by the Spanish authorities because he allegedly belonged to the Basque terrorist group Euzkadi ta Askatasuna (ETA).

The applicant entered the country with false identity papers, was detected by the Migration Police and was turned over to the competent authorities. He was prosecuted by the Liberia-Guanacaste Examining Magistrate's Office for using false documentation and was sentenced to one year's imprisonment.

When his application for refugee status was denied, the applicant filed appeals for revocation, review and annulment, which were denied.

Subsequently, when all administrative and judicial remedies had been exhausted (Judicial Request No. AJ00567-97-MH of 15 May 1997), the then Director of Migration ordered the Migration Police to deport the applicant to his country of origin and to turn him over to the Spanish authorities on suspicion of belonging to the terrorist group ETA.

This case was reviewed in the light of the legislation in force and set a new precedent in the treatment of persons with links to terrorism.

The foregoing shows that Costa Rica has the necessary legal instruments to deal with such situations and to deny protection in its territory to persons who have committed terrorist acts or are suspected of having links with terrorism.

Under the relevant Latin American international customary law, although the granting of political asylum involves a different procedure from that for the granting of refugee status and political asylum is granted by a different authority, the two cases are similar in that the applicant's criminal record must be verified before asylum is granted. Each application must be reviewed in detail, bearing in mind the stipulation in article 31 of the Constitution that "the territory of Costa Rica shall be a place of asylum for any person who is persecuted on political grounds. If for compelling legal reasons the expulsion of such persons is ordered, in no case may they be sent to the country where they were persecuted".

This stipulation makes it clear that political asylum is the protection which a State extends to a person or group of persons regardless of their origin. Such protection is granted at the Government's discretion and, specifically, by joint act of the Ministry of Foreign Affairs and Worship and the President of the Republic.

In order for asylum to be granted, applicants must be persecuted by the Government of their country and, specifically, by the State. Such persecution may be on grounds of belief, whether religious, political, ideological or cultural, or on grounds such as language or race, and must be of such magnitude as to threaten their physical safety, their health or their liberty. However, they must be persecuted by an organ of the State, a category which does not include so-called subversive, guerrilla or paramilitary groups or movements opposed to the central Government.

Furthermore, as can be seen from article 31 of the Constitution, while it is true that the national territory must be a place of asylum for any person who is persecuted, the right of asylum, like any right enshrined in Costa Rica's legislation, cannot be considered absolute and unlimited. On the contrary, it is subject to parameters which ensure that national or international security will not be endangered.

The application for asylum must meet a number of requirements. In a letter to the Minister, applicants must provide their personal data and explain why they consider themselves to be victims of political persecution, attaching evidence to support their claim and photocopies of their identity documents, including their passport, to show the date on which they entered the country. It is also very important that they submit a criminal record form, as this makes it possible to verify that they are not fleeing their country because they have committed a crime or a terrorist act.

Once all the above requirements have been met and the completed application has been considered, the applicant is interviewed in order to verify whether the data, facts and other information provided are correct. In some cases, this interview also yields new information that helps in making a final decision. Subsequently, a recommendation is made in the form of a resolution, on the basis of which the final decision to approve or reject the application is made.

One very important point must be made: while it is true that article 31 of the Constitution states that our country shall be a place of asylum for any person who is persecuted, this does not mean that our territory will serve as a refuge for persons who are seeking to evade action by the authorities of their own country; such an interpretation would be contrary to the definition of political asylum. In that regard, the Inter-American Commission on Human Rights stated on 20 October 2000 that "the Inter-American Commission should note that the institution of asylum is totally subverted by granting such protection to persons who leave their country to elude a determination of their responsibility as the material or intellectual author of international crimes. The institution of asylum presupposes that the person seeking protection is persecuted in his or her State of origin, and is not supported by it in applying for asylum".

The Department of Legal Advice in the Ministry of Foreign Affairs and Worship carries out internal monitoring of the applications for political asylum submitted and the persons to whom asylum has been granted since the 1970s. This monitoring is effected through certification of political asylum status, which must be renewed annually and which indicates:

- The number of the decision by which asylum was granted, including the date and time;
- Whether the certification extends to other persons;
- The nationality of the person to whom asylum was granted;
- That the asylum status is still in effect.

When persons who have been granted political asylum go to the Ministry to request recertification, their applications are reviewed, and this permits closer monitoring of their current status.

**Subparagraph (g) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.**

Costa Rica is one of the few countries in the world to have a clearly defined procedure for the granting of refugee status. This procedure is described under paragraph 2 (c) of this report, where it is explained that our country has the necessary instruments to deny applications for refugee status in cases where it is found that the applicant, even though he or she is subject to persecution in his or her country, is not eligible for international protection under article 1 (F) of the Convention relating to the Status of Refugees because he or she has committed a serious crime against peace, a war crime, or a crime against humanity; acts contrary

to the purposes and principles of the United Nations; or a serious crime outside the country of refuge prior to admission as a refugee.

It is also permitted by law to revoke refugee status after it has been granted and to proceed as described in subparagraphs (o) and (p) under paragraph 2 (c) of this report.

## Conclusions

It is clear from this report that Costa Rica currently has the necessary legal and logistical tools to implement Security Council resolution 1373 (2001) and to cooperate in international efforts to combat terrorism. Act No. 8204, which extends the financial controls for preventing money-laundering to all serious criminal offences and defines a series of offences related to such activities, will be approved by the executive branch and published in the Official Gazette in the last week of December 2001. It is also hoped that when the Legislative Assembly resumes its work after the presidential elections to be held in early February 2002, it will complete the process of ratifying all the conventions and protocols thereto that are still pending.

However, it is also clear that terrorism poses serious challenges to the country's migration, financial and police control mechanisms and that while Costa Rica is making great efforts in these areas, existing resources are not always totally effective. This is particularly true in the light of the well-known link between transnational organized crime and terrorism and the resources available to such groups.

Costa Rica therefore thanks the Chairman of the Security Council Counter-Terrorism Committee for his offer to provide technical assistance to countries which request it. The various State institutions whose work is mentioned in this report are currently assessing what specific training or resources they need to increase their effectiveness in combating terrorism. These needs will be communicated to the Committee for consideration, in due course, in a separate document.

The Republic of Costa Rica vigorously condemns terrorism in all its manifestations and has joined actively in the international community's current efforts to combat it. The efforts require coordinated work on many fronts and, above all, close international cooperation. Nevertheless, it is vitally important that the war on terrorism should at all times be waged in strict compliance with the norms of international law and, in particular, of human rights.

The war on terrorism must also take into account structural factors, such as poverty and ignorance, which may foster terrorism. In this connection, the international community must make a special effort to reduce world poverty and to create the necessary conditions for all the inhabitants of the planet to develop their human potential properly. The provision of international cooperation by rich countries to poor ones will be important, as will the elimination of unfair trade practices which primarily affect developing countries and hinder their economic growth.

Another area to which special attention should be paid is efforts to combat transnational organized crime in general and corruption, and sources of terrorist financing or laundering of terrorist funds in particular. Controlling the

manufacturing of and trafficking in arms also assumes increased importance at this juncture.

The 11 September attacks changed the world forever. In particular, we have a different understanding of security and of international relations. This great tragedy offers humankind an opportunity to build a new, more just, tolerant and peaceful international order.